

September 16, 2010

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room TWA325
Washington, DC 20554

**Re: Response to Written *Ex Parte* Presentation
ET Docket Nos. 04-186, 02-380**

Dear Ms. Dortch:

As organizations concerned with ensuring fair and equitable access to broadband and to the media, we write to express our concern that proposals to set aside additional channels for wireless microphones, as well as proposals to reserve six channels in rural areas for licensed wireless backhaul, will unduly limit opportunities for new unlicensed wireless technology. Unlicensed spectrum is a critical resource that will enable organizations and individuals who traditionally do not have access to infrastructure to create new products and spur competition in an arena where currently only a small handful of companies dominate. Unlicensed spectrum, for example, could assist small companies who have limited access to capital markets but are able to find creative ways to serve niche markets. Non-profit access to new devices and unlicensed spectrum will allow creativity in bridging the existing digital divide—allowing communities more control over their own technology solutions. While we recognize the importance of wireless microphone use and the need to expand wireless backhaul, we also believe in expanding opportunities for unlicensed spectrum access that helps to bridge the digital divide and allows traditionally disenfranchised communities to fully participate in the emerging electronic media.

First, we ask that the FCC carefully balance the request for additional channels and access to the proposed users database by the Wireless Microphone User Coalition and others. Some of our organizations use and rely upon wireless microphones. We were sold microphones from companies that did not appropriately acknowledge the limitations of existing laws on their use. Wireless microphones are unlicensed uses today, and should exist on a co-equal basis with the new devices that are being proposed. Giving wireless microphones exclusive access to six additional channels in all markets, and potentially blocking others' use by including them in the licensed database, will make it very difficult for urban residents to benefit from this new technology. Already, many traditionally disenfranchised communities have used unlicensed wi-fi to expand their access to the Internet and extend their voices online. Reducing the channels

available for these uses would potentially foreclose these communities in the most crowded urban markets from benefiting from the new access to the broadcast white spaces.

We also wish to express our strong opposition to a proposal by FiberTower Corporation (“FiberTower”), Sprint Nextel Corporation (“Sprint Nextel”), the Rural Telecommunications Group, Inc. (“RTG”), and the Wireless Communications Association International (“WCAI”) requesting that the Commission “take immediate action to authorize limited fixed licensed use of a limited portion of the vacant TV Bands White Spaces (“White Spaces”) channels in rural and tribal areas.”

Contrary to what these companies have claimed, it is unequivocally not in the best interest of rural and tribal communities. Indeed, this proposal to license portions of the vacant “white spaces” TV bands will do lasting harm to the vacant TV channels' potential, as unlicensed spectrum, to boost local innovation, local network investment, local economic development and job-creation, and community self-help in rural and tribal communities.

As the Commission's own engineering studies have documented, and a voluminous public-comment record has affirmed, cognitive radios now exist – and will continue to evolve – which can co-habit the White Spaces without interference, both for backhaul links and last-mile broadband services. This technology will allow non-profits and small companies to strengthen existing community networks and deploy new ones. But this will only happen if the Commission leaves enough spectrum for manufacturers to see a viable market.

If the Commission were to accede to the Fiber Tower Coalition's proposal, manufacturers' incentives for further innovation and refinement of long-distance backhaul radios would be greatly eroded. The proposal would take more than the 6 channels requested. It would also destroy the usefulness of adjacent channels due to out-of-band emissions. White Spaces devices would be required to protect the new licensed backhaul service, while at the same time accepting interference from the licensed service.

In addition, the need to create new rules for this licensed backhaul service will create new uncertainty and delay. Although the FiberTower coalition claims that they can use “off the shelf” technology to deploy immediately, the Commission would still need to propose new rules that must resolve complex questions such as the appropriate power limits, what constitutes “rural,” and other matters on which the Commission has not previously sought public notice. It seems extremely unlikely that, after nearly 2 years of delays, manufacturers will patiently wait while these additional complications are

resolved. We are afraid that instead, if confronted by this last minute change, that manufacturers will simply walk away. The Commission's National Broadband Plan has articulated broadband access to all communities in this country as one of its highest priorities. It is extremely disturbing, therefore, that the Commission would move more resources into private hands and out of the public's hands when unlicensed spectrum promises to be an important tool in disseminating broadband access widely.

To conclude, we urge the FCC not to jeopardize the potential for new unlicensed technology by depriving it of much needed spectrum and by introducing new uncertainties and delays. The FCC should not allow wireless microphone users to have access to the database, and should carefully balance the need to protect wireless microphone users with the needs of urban communities to have access to new wireless technologies. The FCC should not jeopardize the viability of this new technology by adopting the Fibertower proposal, which would create new delays and uncertainties that will only discourage future investment in this technology. Instead, the FCC should adopt an Order that demonstrates the FCC's commitment to unlicensed spectrum as one of the many tools of expanding access for all to our digital future.

Respectfully submitted,

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